

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

Adelaido Gomez on behalf of V.D.G.

Case No. 1:24-cv-00678-EPG

Plaintiff,

V.

Leland Dudek¹, ACTING COMMISSIONER
OF SOCIAL SECURITY,

**STIPULATION FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES AND
EXPENSES PURSUANT TO THE EQUAL
ACCESS TO JUSTICE ACT; ORDER**

(ECF No. 23)

Defendant.

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of SEVEN THOUSAND DOLLARS AND 00/100 (\$7,000.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of ZERO dollars (\$0.00) under 28 U.S.C. §1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920, 2412(d).

¹ Leland Dudek became the Acting Commissioner of Social Security on February 16, 2025. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Leland Dudek should be substituted for Michelle King as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 Plaintiff was the prevailing party in this matter and Plaintiff is an individual whose net worth
2 does not exceed \$2,000,000 at the time the civil action was filed.

3 After the Court issues an order for EAJA fees to Plaintiff, the government will consider the
4 matter of Plaintiff's assignment of EAJA fees to Plaintiff's attorney. Under Astrue v. Ratliff, 130 S.
5 Ct. 2521, 2528-29 (2010), EAJA fees awarded by this Court belong to the Plaintiff and are subject to
6 offset under the Treasury Offset Program (31 U.S.C. § 3716(c)(3)(B) (2006)). Any EAJA fees should
7 therefore be awarded to Plaintiff and not to Plaintiff's attorney. If, after receiving the Court's EAJA
8 fee order, the Commissioner (1) determines that Plaintiff has assigned his right to EAJA fees to his
9 attorney; (2) determines that Plaintiff does not owe a debt that is subject to offset under the Treasury
10 Offset Program, and (3) agrees to waive the requirements of the Anti-Assignment Act, then the EAJA
11 fees will be made payable to Plaintiff's attorney, JONATHAN O. PEÑA-MANCINAS at the firm,
12 PEÑA & BROMBERG, PC. However, if there is a debt owed under the Treasury Offset Program, the
13 Commissioner cannot agree to waive the requirements of the Anti-Assignment Act, and the remaining
14 EAJA fees after offset will be paid by a check or electronic fund transfer (EFT) made out to Plaintiff,
15 but delivered to Plaintiff's attorney, JONATHAN O. PEÑA-MANCINAS at the firm, PEÑA &
BROMBERG, PC.

16 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney
17 fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or
18 otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any and
19 all claims that Plaintiff and/or Counsel including Counsel's firm may have relating to EAJA attorney
20 fees in connection with this action.

21 The parties further agree that the EAJA award is without prejudice to the right of Plaintiff's
22 attorney to seek attorney fees pursuant to Social Security Act § 206(b), 42 U.S.C. § 406(b), subject to
23 the offset provisions of the EAJA. *See* 28 U.S.C. § 2412(c)(1) (2006).

24 Respectfully submitted,

25
26 Dated: April 16, 2025

/s/ *Jonathan O. Peña*
27 JONATHAN O. PEÑA
Attorney for Plaintiff

1 Dated: April 16, 2025

2 MICHELE BECKWITH
3 Acting United States Attorney
4 MATHEW W. PILE
5 Associate General Counsel
6 Office of Program Litigation
7 Social Security Administration

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10 By: * Oscar Gonzalez de Llano
11 Oscar Gonzalez de Llano
12 Special Assistant U.S. Attorney
13 Attorneys for Defendant
14 (*Permission to use electronic signature
15 obtained via email on April 16, 2025).
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1 **ORDER**

2 Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act
3 Fees and Expenses (the "Stipulation"),

4 **IT IS ORDERED** that fees and expenses in the amount of SEVEN THOUSAND DOLLARS
5 AND 00/100 (\$7,000.00) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. §
6 2412(d) and costs in the amount of ZERO dollars (\$0.00) under 28 U.S.C. §1920, be awarded subject
7 to the terms of the Stipulation.

8 IT IS SO ORDERED.

9 Dated: April 16, 2025

10 /s/ *Eric P. Gruj*
11 UNITED STATES MAGISTRATE JUDGE

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